

**MINUTES OF THE MILLVILLE  
TOWN COUNCIL MEETING  
September 11, 2012 @ 7:00PM**

**1. CALL TO ORDER:**

Mayor Hocker called the meeting to order with a moment of silence in memory of former Mayor Tim Droney and the anniversary of September 11, 2001. He opened the meeting with the Pledge of Allegiance at 7:01pm.

**2. ATTENDANCE:**

Mayor Gerry Hocker, Deputy Mayor Jon Subity, Council Members' Robert Gordon, Joan Bennett and Harry Kent. Town Solicitor Seth Thompson. Town Manager Debbie Botchie and Town Clerk Donna Schwartz were also present.

**3. ANNOUNCEMENTS:**

No announcements

**4. ADOPTION OF MINUTES:**

Deputy Mayor Subity motioned to accept the Council minutes of August 14, 2012 & the Executive Session minutes of August 14, 2012. Council Member Bennett seconded his motion.

All present voted in favor.

Motion carried unanimously 5-0.

**5. TREASURER'S REPORT:**

Council Member Joan Bennett presented the Financial Report for month ending 8/31/12.

**August 31, 2012:**

General Revenue: \$ 28,248.      General Expenses: \$ 44,839.

Restricted Revenue: 47,141.      Restricted Expenses: 1,219.

Council Member Kent motioned to accept the Treasurers Report.

Council Member Gordon seconded his motion.

All present voted in favor.

Motion carried unanimously 5-0.

**6. ADMINISTRATIVE REPORT:**

Ms. Botchie noted her report was included in the packet and had nothing additional to report.

**7. SWEARING IN of Susan Brewer as Board of Adjustment Member:** Donna Schwartz, Town Clerk swore-in Susan Brewer for a Board of Adjustment position

**8. PUBLIC HEARING:**

- A. Public comment regarding concerns and issues with Millville-By-The-Sea Special Development District.

Council Member Subity recused himself and moved into the audience.

Sally Griffin, Huntington Street, offered a petition to Council to repeal the special tax district and asked Council to acknowledge the 145 signatures from 185 homes. She said they had no refusals for signature and many asked for more information. Mayor Hocker accepted the petition.

Steve Maneri, Pembroke Lane, spoke next. He said he had to sign documents that said he would pay the tax just to live in the community. Mr. Maneri also said he spoke to Sussex County and the current sewer treatment plant is sufficient to service another 12,000-14,000 homes. There are no additional roads needed, and those should be charged for by the lot not in a special tax. He said he has an HOA fee of \$23 quarterly for lighting. There is no further need of a new Town Hall, or public works facility needed for nine roads. Mr. Maneri spoke about how times have changed and the site plan is not the same and the impact on the community is not what it was supposed to be therefore the reason for the SDD tax is no longer valid.

Laura Cord, Pembroke Lane, said she purchased her home as a retirement home and the additional SDD tax will impact her ability to retire. The number of homes in the development does not justify the SDD tax.

Pam McCormick, Tybee Street, stated Miller & Smith have changed the plans drastically. Phase II has become simply an extension of Sand Dollar Village from Huntington Street. This prevents the takeover of the HOA. She said she is very concerned about the future, not sure what to expect.

No further comments.

## **9. NEW BUSINESS:**

- A.** Request received from Miller & Smith regarding timeline for consideration and possible restructuring of Millville-By-The-Sea Special Development District.

Esquire William Scott, of Scott and Schuman, spoke on behalf of Miller & Smith and noted a common thread among the commenters. He thinks MBTS has done an admirable job keeping up with the pace of the economy. Since July they have been exploring options to change, however he doesn't believe it can be done in a matter of weeks. Chuck Ellison assured Council that MBTS was going forward as envisioned, and would be built out to 2,800 units with all the features of the master planned community approved by Planning and Zoning and the Town Council. He said the original concept was critical to the plan and asked Council to consider allowing him to present a new plan at the October workshop.

- B.** Resolution 13-02

### Synopsis

Resolution 13-02 terminates the Millville-By-The-Sea ("MBTS") Special Development District and the MBTS Special Fund created on February 10, 2009 by Resolution 09-01. It also revokes the related pledge of the proceeds of the MBTS Special Tax to the MBTS Special Fund and the requirement that proceeds from the MBTS Special Tax be paid into the MBTS Special Fund.

Council Member Gordon read Resolution 13-02 which would terminate the MBTS SDD. Mr. Thompson explained the purpose of the resolution which is to revoke the previous Resolution 09-01 following a 15 day newspaper notice of a public hearing. Council Member Kent asked Mr. Ellison if he could be ready to present his plans at the September workshop. Mr. Ellison said he could be ready in two weeks. Council Member Gordon asked that a vote on Resolution 13-02 be on the October 9 meeting agenda. Public comment will be taken prior to the vote. Council Member Bennett concurred with moving the item on as expeditiously as possible.

Council Member Bennett motioned Resolution 13-02 be added the October 9<sup>th</sup> Regular Meeting for a public meeting and vote. She asked that the appropriate notice be printed in the newspaper. Council Member Kent seconded her motion. Vote 4/0 with one recusal. Motion carried.

Mayor Hocker asked Mr. Ellison to explain at the workshop what has been done in the last two and a half years towards the SDD. He also asked him to explain how MBTS differs from a RPC. Mr. Ellison acknowledged his request.

Jane Kestler, Tybee Street, asked Council if the homeowners would benefit from getting legal advice or representation. Mr. Thompson agreed it could be helpful to the residents.

Art Davis, Tybee Street, stated the document he signed regarding the potential tax carried a drop dead date of January 1, 2011 and said he was confused by all the different variations of the document. He said the document was poorly put together and short on factual information.

Bob Leidy, Substation Road, asked if the petition would be part of the record of the meeting, to which Mayor Hocker responded, "Yes."

Pat Zentz, Oglethorpe Rd, questioned if the tax passed what would prevent them from changing their minds again back to 800 homes.

Mitch Rubin, Windsor Rd, asked how the payment would work. Mr. Thompson said it would work just like a regular tax that the Town would collect. Town Manager Debbie Botchie said the Council was just getting educated when the brakes were put on, no ordinance was passed. She said she needed more information, however, the Town collects the money and the Trustee keeps the money and pays the bills that are approved by Bond Council.

Paul Cooper, New York, said he was considering buying a home but he was told he had to sign a second contract/application to the Town before he can buy the home. He felt this was a strong arm tactic by the developer. Mr. Cooper felt there was too much gray area in the deal.

William Slagle, Tudor Pl, asked Council to please have consideration for the property owners living there.

Sally Griffin, Huntington St, she said she felt if there was an additional tax for Millville it should distributed equally among all residents.

- C. Richard I. Bloch of Dickens Parlour Theatre would like to discuss with the Town Council his proposal for a Dinner Theatre, which currently is not a permitted use under the C1 Regulations; Tax Map Parcel #134-12.00-282.00.

Synopsis

- On June 16, 2010, Council approved Mr. Bloch's application for a Conditional Use at 35715 Atlantic Avenue, to open and operate a Performing Arts Theatre. The Town of Millville Code also had to be amended to allow for Performing Arts Theatres.
- On February 2, 2011, Council approved Mr. Bloch's application for a Conditional Use at 35715 Atlantic Avenue, to open and operate a banquet facility (catered food only and no food preparation on site). The Town of Millville Code also had to be amended to allow banquet facilities in conjunction with a Performing Arts Theatre.
- On June 12, 2012, Council approved Mr. Bloch's application to amend the existing Conditional Use/Performing Arts Theatre to increase occupancy in the theatre to 61 maximum.

Council Member Gordon read the synopsis. Mr. Bloch was present to discuss his proposal. He would like to have the ability to prepare food on premises, as opposed to bringing whole dinners in from another restaurant. Mr. Bloch explained large groups ask him for eating arrangements. Currently the catering is done by Bethany Blues. He has found it necessary to have a cost margin with serving food.

Mr. Thompson noted the performing arts is the primary use, the serving of food triggers a restaurant use and per the code he cannot have both. He did note a conditional use can change the code on an individual basis.

Mayor Hocker asked Mr. Bloch if he had investigated all State and Board of Health Regulations? Food storage regulations? Does he have Fire Marshal approval? Additional insurance requirements? Mr. Bloch replied he had followed all regulations on the check list, such as underground lines, 100lb propane tank, a canopy; he said he does not have the overhead to support the cost of a facility of greater magnitude. "Food storage is okay," he said, "he had the appropriate equipment, however, he does need an outdoor scrub sink."

Council Member Kent asked if the food service would be seasonal. Mr. Bloch replied, "No, it would be year round." Mr. Kent said he was concerned about the smoke from the grill disturbing the residents of Creekside. Council Member Gordon said he would like drawings, and asked what would be on the menu. Mr. Bloch replied he has drawings for Council, and he would be serving grill stuff like hamburgers, hotdogs, and chicken. He also noted the food would only be available to those going to the show.

Council Member Subity asked Mr. Bloch how soon he could open if he were given approval tonight. Mr. Bloch replied, "This weekend." Mayor Hocker asked Mr. Bloch to supply Council with site plans and approval letters as soon as possible.

Mr. Thompson noted to Council they have to look to the future when deciding what to do, they can allow something as a conditional use or change the code. He reminded them if they change the code it would apply to anyone, a conditional use would apply only to Mr. Bloch. Mr. Thompson said the Council could create a new use. Mr. Bloch commented he felt having a conditional use on his business was silly.

Council Member Bennett asked Mr. Thompson if she was correct, concerning a conditional use -- if Dicken's Parlour goes away so does the conditional use, if they change the code the permitted use stays. Mr. Thompson told her she was correct. Mrs. Bennett also questioned what happens to the conditional use when it amended several times. She commented that she is greatly disturbed by changes to the code.

Council Member Kent stated he would rather amend the conditional use as opposed to changing the code and would like Council to take the time to review. Mayor Hocker asked Mr. Bloch when they could expect the necessary documents he requested. Mr. Bloch replied by the end of the week.

#### **10. COMMITTEE REPORTS:**

**A. Pumpkin Festival:**

Council Member Subity gave a report on the upcoming Pumpkin Festival on October 6<sup>th</sup> at the Millville Fire Department Grounds.

**B. Sprinkler Committee:**

Council Member Gordon asked Town Manager Debbie Botchie to find some vendors for him to contact regarding a fire suppressant system. Council Member Kent stated he thought the entire building should be protected by a water system; those are the best if properly designed. Ms. Botchie said she will contact the Fire Marshal's office for advice.

#### **11. PROPERTY OWNERS/AUDIENCE COMMENTS:**

None

#### **12. ADJOURNMENT:**

Mayor Hocker announced next meeting of the Council would be a workshop September 25, 2012.

Council Member Bennett motioned to adjourn the meeting at 8:18pm. Council Member Kent seconded his motion.

All present voted in favor.

Motion carried unanimously 5/0.

Respectfully submitted,  
Donna M. Schwartz, Town Clerk